THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CRIMINAL PETITION NO. 5304 OF 2004

Date: 29.03.2006

Between:

1. Goolla Janardhan and eight others.

Petitioners/Accused No.1 to 9.

And

1. The State of Andhra Pradesh, through S.H.O., Maddur P.S. rep., by the P.P. High Court of A.P. Hyderabad and another.

Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CRIMINAL PETITION NO. 5304 2004

ORDER:

This petition is filed to have the proceedings in Cr.No. 49 of 2004 on the file of Maddur Police Station for offence under Section 3(1)(X) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 307, 323, 506 read with Section 149 IPC, quashed.

2. The *de facto* complainant, the 2nd respondent herein, is a member of the Scheduled Castes. The allegations in the complaint are that, on 14.10.2004 when the villagers were discussing sale of toddy and two groups had entered into a heated exchange, the *de facto* complainant is said to have visited the place of offence around 10.00 am, to have intervened and tried to separate them, when they are said to have abused him as under:

"Era Madiga Lanja Kodaka Neevu Maa Madhyala Enduku Vastavura?"

He is said to have been beaten with chappals by the 1st accused, while the 2nd accused is alleged to have caught hold of him. On the same day, the complaint in Cr.No. 49 of 2004 was registered. Sri E.V. Bhagiradha Rao, learned Counsel for the petitioners, would seek to place reliance on the affidavit filed by the 2nd respondent in W.P.No. 2035 of 2004 affirmed to on 03.11.2004, certified copy of which was obtained on 09.11.2004, wherein he is alleged to have stated that he was forced to give the complaint by the police officials. The next day after certified copies were obtained on 09.11.2004, the present criminal petition is filed on 10.11.2004 and the affidavit filed in support of the writ petition is said to form the basis for seeking to have the proceedings in Cr.No. 49 of 2004 quashed.

3. It is not difficult for this Court to perceive the manner in which the process of this Court is sought to be abused. Be that as it may the scope of jurisdiction of this Court under Section 482 Cr.P.C. is limited and it is only if the uncontroverted allegations in the complaint, if accepted in its entirety as true, do not make out an offence against the petitioners herein of their having committed the offences of which they are charged, would this court be justified in exercising its powers under Section 482 Cr.P.C. The uncontroverted allegations in the complaint, if accepted as true, undoubtedly make out a case of the petitioners herein having committed the offences of which they are charged. It needs no reiteration that the truth or otherwise of these allegations are not, normally, the subject matter of enquiry in proceedings under Section 482 Cr.P.C. and are all matters required to be examined by the trial Court. Extraneous material, including an affidavit filed in support of the writ petition, cannot form the basis to have a complaint or a charge sheet quashed. The Criminal complaint as filed is clearly an abuse of process of Court and is

accordingly dismissed.

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RAMESH RANGANATHAN, J

Date: 29.03.2006

MRKR